

FORTIETH DAY.

SENATE CHAMBER,
AUSTIN, February 28, 1891. }

Senate met pursuant to adjournment.

Lieutenant-Governor Pendleton in the chair.

Roll called.

No quorum present.

The following Senators answering to their names:

PRESENT—18.

Clemens,	Harrison,	Pope.
Craue,	Ingram,	Potter,
Cranford,	Johnson.	Simkins,
Finch,	Kearby,	Sims,
Frank,	Lubbock,	Stephens,
Garwood,	Mae'ze,	Weisiger.
	ABSENT—4.	
Atlee,	Clark,	Kimbrough,
		Tyler.

Senator Frank moved a call of the Senate, which was ordered.

The following Senators answered to their names:

PRESENT—20.

Atlee,	Harrison,	Potter,
Clemens,	Ingram,	Simkins,
Craue,	Johnson,	Sims,
Cranford,	Kearby,	Sto
Finch,	Lubbock,	Tyler,
Frank,	Maetze,	Weisiger.
Garwood,	Pope,	
	ABSENT—2.	
Clark,	Kimbrough.	

Senator Seale appeared and took his seat.

Quorum present.

Senator Simkins moved to suspend the rules and to excuse the gentleman from Jasper.

Adopted.

Pending the reading of the Journal, on motion of Senator Finch the further reading of the same was dispensed with.

On motion of Senator Finch, the Journal was corrected to show that on the vote to engross Senate bill No. 1, he voted aye.

Also, on motion of Senator Frank, the Journal was corrected to insert the word "vote," where it is omitted in his pair with Senator McKinney, on page 4 of the same.

Senator Pope moved that the call be suspended.

Adopted.

S J—18

On motion of Senator Garwood, Senator Carter was excused till Monday, on account of important business.

On motion of Senator Potter, Senator Glasscock was excused for today, on account of important business.

On motion of Senator Craue, Senator Townsend was excused for today, on account of important business.

Senator Finch moved to reconsider the vote by which Senator Craue's amendment to Senate bill No. 1 was laid on the table yesterday, and asked to have that motion spread upon the journal.

The following reports were handed in from their respective committees:

COMMITTEE ROOM.

Austin, February 28, 1891.

Hon. Geo. C. Pendleton, President of the Senate.

Sir—Your committee on Education, to whom was referred

Senate bill No. 257, being "An act to create and establish an industrial institute in the State of Texas and a college for the education of white girls in the arts and sciences,"

Have had the same under consideration, and I am instructed to report the following substitute therefor with the recommendation that said substitute do pass.

MAETZE, Acting Chairman.

COMMITTEE ROOM,

Austin, February 27, 1891.

Hon. George C. Pendleton, President of the Senate:

Sir—Your committee on Engrossed Bills have carefully examined and compared

Senate bill No. 298, being "An act to authorize and empower the superintendent of the state penitentiary of Texas to receive from the treasurer of the United States in the name of the state of Texas the bounty on sugar raised and manufactured on the state penitentiary farms in Texas,"

And find the same correctly engrossed.

CARTER, Chairman.

COMMITTEE ROOM,

Austin, February 27, 1891.

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your committee on State Affairs to whom was referred

Senate bill No. 320, being "An act to amend article 522, chapter 11, title

17, of the revised civil statutes of the State of Texas."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

HARRISON, Acting Chairman.

COMMITTEE ROOM,

Austin, February 25, 1891.

Hon. George C. Pendleton, President of the Senate:

Sir—Your committee on county and county boundaries to whom was referred,

Senate bill No. 305, being "An act to restore and confer upon the county court of Carson county the civil and criminal jurisdiction heretofore belonging to said court."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass, with the following amendment:

Amend by adding "San Jacinto" after the word "Carson" wherever it occurs in the caption or in the bill, so as to make the same read "Carson and San Jacinto counties."

STEPHENS, Chairman.

COMMITTEE ROOM,

Austin, February 27, 1891.

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your committee on Stock and Stockraising, to whom was referred

Senate bill No. 243, being "An act to amend section 9 of chapter 75 of an act in relation to butchers, approved April, 1889,"

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass.

WEISIGER, Chairman.

COMMITTEE ROOM,

Austin, February 27, 1891.

Hon. George C. Pendleton, President of the Senate:

Sir—Your committee on Stock and Stock Raising, to whom was referred

House Bill No. 211 being "An act to amend section one (1) of an act entitled an act to amend section 46, chapter 25, of the acts of 1885 entitled an act to amend chapter 79 of the acts of 1883, entitled an act to amend chapter 48 of the acts of 1887, an act to amend section 46 of an act to encourage stock raising and to protect stock raisers, approved April 22, 1879, and amended April 4, 1881, and April 13, 1880, and March 27, 1887, and March 29, 1889."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass with the following amendments:

Amend section 1 as follows:

In the first list of counties after the word "Liberty," insert "Wichita, Wilbarger and Archer."

Add to section 1 the following:

"That all laws and parts of laws in conflict with the provisions of this act are hereby repealed."

WEISIGER, Chairman.

COMMITTEE ROOM,

Austin, February 27, 1891.

Hon. George C. Pendleton, President of the Senate:

Sir—Your committee on Stock and Stockraising, to whom was referred

Senate bill No. 221, being "An act to amend article 4659, title 93 chapter 5 of the revised civil statutes of the State of Texas,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

WEISIGER, Chairman.

BILLS AND RESOLUTIONS.

By Senator Potter:

A bill to be entitled "An act to apportion the state of Texas into congressional districts under the census of 1890."

Read and referred to committee on Apportionment.

Senator Tyler offered the following resolution:

Resolved, that the resolution adopted by the Senate on the 24th inst., designating Saturday of each week for considering local and special bills and forbidding the consideration of such bills on any other day except by unanimous consent be and the same is hereby rescinded.

Read and ordered to lie over one day.

By Senator Clemens:

A bill to be entitled "An act to provide for the collection of a tax on money loaned at interest and secured by a lien on real estate."

Read first time and referred to Judiciary committee No. 1.

By Senator Clemens:

A bill to be entitled "An act requiring the treasurer of the state of Texas to receive from purchasers of university, asylum and public free school lands, as part payment of annual interest, the tax receipts representing taxes assessed against the unpaid principal due on such purchases."

Read first time and referred to Judiciary committee No. 1.

By Senator Lubbock:

A bill to be entitled an act to amend section 9 of an act to authorize any city or town in the State to compromise existing indebtedness, and to issue new bonds, to be sold or exchanged for this purpose; and to provide for the efficient collection of taxes to pay principal and interest of such new bonds, and to provide for the appointment of receivers for said municipal corporations during the pending of negotiations for such compromise, approved March 26, 1887.

Read first time and referred to committee on Incorporated Cities and Towns.

By Senator Weisiger:

An act to provide for the construction of ditches, drains and water courses.

Read first time and referred to committee on State Affairs.

By Senator Pope:

A bill to be entitled an act to amend article 816, chapter 3, title 18, of the penal code, revised statutes of the State of Texas.

Read first time and referred to committee on State Affairs.

ORDER OF THE DAY.

House bill No. 142, entitled "An act to fix the time for holding the district court in the Twenty-fourth judicial district."

Taken up in regular order, read second time and passed to third reading.

House bill No. 162, entitled "An act to be entitled an act to amend an act to reorganize the Thirty-first, Thirty-second, Thirty-third, Thirty-fifth and Thirty-ninth judicial districts, and to create the Forth-second judicial district of the state of Texas, and to fix the times of holding courts therein, and to provide for the appointment and election of judges and district attorneys in the Thirty-second and Forty second judicial districts and to repeal all laws and parts of laws in conflict herewith, approved March 31, 1887."

Taken up in regular order and read second time.

Substitute House bill No. 216, entitled "An act to reorganize the Thirty-fifth judicial district and to create the Fifty-first judicial district of the state of Texas."

Taken up in regular order, read second time and passed to a third reading.

Senator Sims moved to suspend the

constitutional rule requiring a bill to be read on three several days, and that the bill now pass to a third reading and final passage, which prevailed by the following vote:

YEAS—21.

Atlee,	Harrison,	Potter,
Clemens,	Ingram,	Seale,
Crane,	Johnson,	Simkins,
Cranford,	Kearby,	Sims,
Finch,	Lubbock,	Stephens,
Frank,	Maetze,	Tyler,
Garwood,	Pope,	Weisiger.

NAYS—None.

The bill was read a third time and passed by the following vote:

YEAS—18.

Atlee,	Harrison,	Potter,
Clemens,	Ingram,	Seale,
Crane,	Johnson,	Simkins,
Cranford,	Kearby,	Sims,
Finch,	Lubbock,	Stephens,
Frank,	Maetze,	Tyler,
Garwood,	Pope,	Weisiger.

NAYS—None.

I vote aye at the request of the parties interested in the bill so that it may go into effect at once, the vote showing that the bill would finally pass regardless of my vote, but I do not think the bill should pass.

POTTER.

House bill No. 307, entitled an act to create the county of Sterling out of the county of Tom Green.

Taken up in regular order, read second time and passed to a third reading.

Senator Sims moved to suspend the constitutional rule requiring a bill to be read on three several days and that the bill pass to a third reading and final passage.

Adopted by the following vote;

YEAS—21.

Atlee,	Harrison,	Potter,
Clemens,	Ingram,	Seale,
Crane,	Johnson,	Simkins,
Cranford,	Kearby,	Sims,
Finch,	Lubbock,	Stephens,
Frank,	Maetze,	Tyler,
Garwood,	Pope,	Weisiger.

NAYS—None.

The bill read third time and passed by the following vote:

YEAS—21.

Atlee,	Harrison,	Potter,
Clemens,	Ingram,	Seale,
Crane,	Johnson,	Simkins,
Cranford,	Kearby,	Sims,
Finch,	Lubbock,	Stephens,
Frank,	Maetze,	Tyler,
Garwood,	Pope,	Weisiger.

NAYS—None.

Senate bill No. 234, entitled "An act to validate the sale of section 82, block H, located for the common school fund by virtue of certificate No. 141, issued to the Waco and Northwestern Railroad company, situated in Hardeman county, made by the State land board to P. E.

Holmes, upon his application for the purchase thereof, filed on the 28th day of May, 1885, under the act of April 12, 1883, providing for the sale and lease of common school, university and asylum lands, etc., and to authorize and require the commissioner of the general land office to issue patent therefor in favor of the heirs of L. H. Davis, deceased, whenever they shall pay to the State the amount of money due the common school fund for said land, according to the terms of said sale."

Taken up in regular order and read second time.

Senator Tyler offered the following amendment:

Amend the bill by adding thereto section 3 to read as follows:

Whereas, There is now pending in the district court of Hardeman county a suit to forfeit the sale heretofore validated, which suit is liable to be called for trial before the adjournment of the present session of the legislature. There exists an emergency and an imperative public necessity that the constitutional rule requiring all bills to be read on three several days to be suspended and said rule is hereby suspended and that this act take effect and be in force from and after its passage and it is so enacted.

Adopted.

The bill was ordered engrossed.

House bill No. 162 on second reading, was ordered to lie over subject to call.

Senate bill No. 196, entitled "An act permitting William Evans to sue the state of Texas in a court of competent jurisdiction to try and determine the merits of such claim as he may have against the state for loss of the schooner "Josephine" while engaged in the quarantine service of the state about October, 1887."

Taken up in regular order and read second time, with the following committee amendments:

Strike out in section 1, third line, "in any court of competent jurisdiction in this State," and insert "in the district court of Travis county," and insert before "damages," in the fifth line, the word "alleged," and insert in the seventh line, before the word "loss," "alleged," so as to make it read "alleged loss." Also strike out in section 2 "in case any claim shall be established," and insert "in case said claim shall be established by said court." Also strike out section 3, beginning the emergency clause.

A division of the amendments was called for.

The first committee amendment was adopted.

The second committee amendment was adopted.

The third committee amendment was adopted.

The fourth committee amendment was lost by the following vote:

YEAS—4.

Crane,
Finch.

Frank.

Kearby.

NAYS—17.

Atlee,
Clemens,
Cranford,
Garwood,
Harrison,
Ingram,

Johnson,
Lubbock,
Maetze,
Pope,
Potter,
Seale,

Simkins,
Sims,
Stephens,
Tyler,
Weisiger.

(Senator Potter in the chair).

The bill was ordered engrossed.

Senator Atlee moved to suspend the constitutional rule requiring a bill to be read on three several days and that the bill pass to a third reading and final passage.

Adopted by the following vote:

YEAS—21.

Atlee,
Clemens,
Crane,
Cranford,
Frank,
Finch,
Garwood,

Harrison,
Ingram,
Johnson,
Kearby,
Lubbock,
Maetze,
Pope,

Potter,
Seale,
Simkins,
Sims,
Stephens,
Tyler,
Weisiger.

NAYS—None.

Bill read third time and passed by the following vote:

YEAS—21.

Atlee,
Clemens,
Crane,
Cranford,
Finch,
Frank,
Garwood,

Harrison,
Ingram,
Johnson,
Kearby,
Lubbock,
Maetze,
Pope,

Potter,
Seale,
Simkins,
Sims,
Stephens,
Tyler,
Weisiger.

NAYS—None.

Senator Stephens, by consent, introduced the following bill:

An act to amend articles 4849, 4851, 4852, 4853, 4854 and 4856 of title 98 of the revised civil statutes of the State of Texas, and to amend article 4850 as amended by an act of the Legislature of the State of Texas, approved April 6, 1889, and to repeal all laws in conflict therewith, regulating weights and measures.

Read first time and referred to Judiciary committee No. 1.

Senator Sims called up House bill No. 162 which was read second time and laid over subject to call this morning, and it was passed to third reading.

Senator Sims moved to suspend the constitutional rule requiring a bill to be read on three several days, and

that the bill pass to a third reading and final passage.

Adopted by the following vote:

YEAS—21.

Atlee,	Harrison,	Potter.
Clemens.	Ingram,	Seale,
Crane,	Johnson,	Simkins,
Cranford,	Kearby,	Sims,
Finch,	Lubbock,	Stephens.
Frank,	Maetze,	Tyler,
Garwood,	Pope,	Weisiger.

NAYS—None.

The bill was read a third time and passed by the following vote:

YEAS—21.

Atlee.	Ingram,	Seale,
Clemens,	Johnson,	Simkins,
Cranford,	Kearby,	Sims,
Finch,	Lubbock,	Stephens.
Frank,	Maetze,	Tyler.
Garwood,	Pope,	Weisiger.
Harrison,	Potter,	

NAYS—None.

Senate bill No. 268, entitled "An act to create the Forty-ninth judicial district of the state of Texas and to provide the time for holding court in the Thirteenth, Eighteenth, Nineteenth and Forty-ninth judicial districts,"

Taken up in regular order and read second time.

Senator Simkins offered the following amendment:

Strike out emergency clause and insert that this act shall not take effect until the next general election.

Adopted.

Senator Crane moved to postpone further action on this bill.

Senator Johnson moved to reconsider the vote by which Senator Simkins' amendment was adopted and asked that his motion be spread upon the Journal.

Senator Crane's motion prevailed.

On motion of Senator Tyler, Secretary Kennedy was excused for next Monday, Tuesday and Wednesday on account of important business.

Senate bill No. 269, entitled "An act to reorganize the Thirtieth judicial district, and to fix the times for holding courts therein.

Taken up in regular order, read second time with favorable committee report and the following amendments:

Amendments to Senate bill No. 269:

Section 2. That this act take effect and be in force from and after its passage, and all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Section 3. The fact that the near approach of the end of this session renders it improbable that this bill can be read on three several days and the fact that it is desired and proper that this bill should go into effect at once,

creates an emergency and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days and that this act take effect from and after its passage and it is so enacted.

The committee amendments were adopted.

The bill was ordered engrossed.

Senator Stephens moved to suspend the constitutional rule requiring a bill to be read on three several days and that the bill pass to a third reading and final passage.

Adopted by the following vote:

YEAS—20.

Atlee,	Harrison,	Seale.
Clemens,	Ingram,	Simkins,
Crane,	Kearby,	Sims,
Cranford,	Lubbock,	Stephens,
Finch,	Maetze,	Tyler.
Frank,	Pope,	Weisiger.
Garwood,	Potter,	

NAYS—1.

Johnson.

(The President in the chair.)

The following message was received from the House:

HALL OF THE HOUSE OF REPRESENTATIVES, AUSTIN, Tex.,
February 28, 1891.

Hon. George C. Pendleton, President of the Senate:

Sir—I am instructed to inform the Senate that the House has passed

House bill No. 490, being "An act to validate the sale of section 82, block H, located for the common school fund, by virtue of certificate No. 1-41, issued to the Waco and Northwestern Railroad company, situated in Hardeman county, made by the State land board to P. E. Holmes, upon his application for the purchase thereof, filed on the 28th day of May, 1882, under the act of April 12, 1883, providing for the sale and lease of the common school, university and asylum lands, etc., and to authorize and require the commissioner of the general land office to issue patent therefor in favor of the heirs of L. H. Davis, deceased, whenever they shall pay to the State the amount of money due the common school fund for said section of land according to the terms of said sale."

Also that the House has adopted the report and concurred in the amendments of the second conference committee on Senate bill No. 10.

SAM H. DIXON,
Chief Clerk,

House of Representatives.

Bill read third time, and passed by the following vote:

YEAS—20.		
Atlee,	Harrison,	Seale,
Clemens,	Ingram,	Simkins,
Craue,	Kearby,	Sims,
Cranford,	Lubbock,	Stephens,
Finch,	Maetze,	Tyler,
Frank,	Pope,	Weiger,
Garwood,	Potter,	
NAYS—1.		
Johnson.		

Senator Tyler moved to postpone pending business and take up Senate bill No. 284 and substitute for it House bill No. 490.

Withdrawn.

Senate bill No. 313, entitled "An act for the relief of Wiley Thompson, C. Cannon, H. M. Jarrett, J. M. Brown, W. A. D. Armstrong, Frank Templeton and E. C. Dickinson from pecuniary liability on the official bond of William Neal Ramey as assistant superintendent of the Texas state penitentiary at Rusk."

Taken up in regular order and read second time with a favorable committee report.

House bill No. 490, entitled "An act to validate the sale of section 82, block H, state school lands, situated in Hardeman county, located by virtue of certificate No. 1-41, issued to the Waco and Northwestern Railroad company, made by the state land board to P. E. Holmes on May 28, 1885, under an act of April 12, 1883, and to authorize patent to issue therefor in favor of L. H. Davis as assignee upon payment of balance due the state on said sale."

Read first time and referred to committee on Public Lands.

Senator Simkins offered the following resolution:

Resolved that whereas there is no rule regulating the proceedings of the Senate in relation to senators brought in under the call of the Senate, and whereas it is the sense of this Senate that no rule of congress or any other parliamentary body except this Senate shall be invoked in reference to the conduct or action of any senator and to the end that there shall be some rule upon the question, be it resolved that hereafter when a senator is brought in under a call of the Senate he shall go to his seat and shall there be called upon by the president to render an excuse and thereupon if an excuse be made the Senate shall accept or reject such excuse by a majority vote, and the action of the Senate or in case of a refusal to make excuse, such refusal shall be entered upon the journal and no further action shall be taken in the premises.

Which was ordered to lie over one day.

The Senate refused to engross Senate bill No. 313.

Senator Cranford moved to reconsider the vote by which the Senate refused engrossment to Senate bill No. 313, and asked to have that motion spread upon the Journal.

On motion of Senator Maetze the Senate adjourned to 10 a. m. Monday.

FORTY FIRST DAY.

SENATE CHAMBER.

Austin, March 2, 1891.

The Senate met pursuant to adjournment.

Lieutenant Governor Pendleton in the chair.

Roll called.

Quorum present.

The following Senators answering to their names:

PRESENT—25.

Atlee,	Garwood,	Pope,
Burney,	Glasscock,	Potter,
Clark,	Harrison,	Seale,
Clemens,	Johnson,	Simkins,
Craue,	Kearby,	Stephens,
Cranford,	Lubbock,	Townsend,
Finch,	Maetze,	Tyler,
Frank,	Page,	Weiger,
		Whatley.

ABSENT—5.

Carter,	Kimbrough,	Sims.
Ingram,	McKinney,	

Prayer by the chaplain, Dr. Smoot.

Senator Pope presented the credentials of the senator from Kerr (Senator Burney) and moved that he be sworn in.

Adopted

And Senator Burney took the oath prescribed by the constitution.

Pending the reading of the Journal on motion of Senator Lubbock further reading of the same was dispensed with.

On motion of Senator Garwood Senator Ingram was excused indefinitely on account of sickness.

On motion of Senator Clark, Senator Carter was excused for today on account of important business.

On motion of Senator Simkins, Senator Sims was excused indefinitely on account of important business.

On motion of Senator Whatley, Senator McKinney was excused for today on account of important business.